

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In re: BRIDGESTONE/FIRESTONE, INC.,) Master File No. IP 00-9373-C-B/S
TIRES PRODUCTS LIABILITY LITIGATION) MDL NO. 1373
<hr/>)
THIS DOCUMENT RELATES TO ALL)
ACTIONS)

ENTRY FOR APRIL 4, 2002

The parties appeared, by counsel, this date for a telephonic status conference, during which the following was discussed:

1. The parties report that they have scheduled the majority of the depositions in the foreign accident cases in which the plaintiffs are not represented by Victor Diaz, and have been working diligently to schedule the depositions in Mr. Diaz's cases.
2. Due to the large number of depositions that remain to be taken in the foreign accident cases, the defendants request an extension of the expert discovery deadlines in the "first wave" and "second wave" cases.¹ The plaintiffs do not object to extending the "second wave" deadlines, and the magistrate judge agrees that it makes sense to do so. Accordingly, the parties shall confer and submit an agreed order regarding the "second wave" deadlines.
3. As for the "first wave" cases, the plaintiffs suggest that there are some cases among that group in which substantial discovery has been completed and therefore it is unnecessary to extend the expert discovery deadline, while in other cases an extension may be warranted. To that end, Bill Winingham, plaintiffs'

¹The parties have coined the phrase "first wave" to refer to cases filed in this court on or before June 30, 2001, and "second wave" to refer to cases filed during the third calendar quarter of 2001 (July 1 through September 30, 2001).

liaison counsel, shall contact the plaintiffs' attorneys in all of the "first wave" foreign accident cases and direct them to provide Mr. Winingham by **Monday, April 8, 2002, at noon**, a list of each of their "first wave" foreign accident cases in which they believe no extension of the current expert discovery deadlines is necessary in light of the discovery that has been completed and/or scheduled to date, along with a list of those "first wave" cases in which they agree that an extension is necessary. Mr. Winingham shall promptly forward the reports to Mr. Diaz and the appropriate attorneys for the defendants.

4. The defendants and Mr. Diaz will confer on Monday April 8th in order to continue the process of scheduling the depositions in Mr. Diaz's foreign accident cases.

That process should be guided by the following general principles:

- a. With rare exception, no child under the age of ten should be deposed at this stage of the litigation;
- b. No more than two police officers and one other public safety officer (including EMTs) should be deposed for any given accident at this stage, with priority being given to the lead investigator for each accident;
- c. Only medical care providers who had a significant role in treating a plaintiff or decedent should be deposed at this stage;
- d. To the extent that the plaintiffs can identify other third party witnesses for whom depositions have been requested and whom they do not intend to call at trial, the defendants should consider postponing those depositions until after all of the witnesses who are likely to be used at trial have been

deposed.

5. By no later than 5:00 p.m. on Wednesday, April 10, 2002, the parties shall submit a report to the magistrate judge which sets forth the following:
 - a. their agreed schedule for expert discovery in the “second wave” foreign accident cases;
 - b. a list of those “first wave” foreign accident cases in which the parties agree that no extension of expert discovery deadlines is necessary;
 - c. a table that lists each of the “first wave” foreign accident cases that remain in the MDL, grouped together by accident, and identifies for each case or group of cases (1) a list of the deponents that have been requested and the subject matter of the deponent’s expected testimony; (2) whether each requested deposition has been scheduled and, if so, the date of the deposition; (3) whether each deposition is considered a “priority” deposition by the defendants, in light of the guidelines set forth in ¶ 4 above; (4) whether each deposition is relevant to expert discovery; and (5) whether the parties agree that an extension of the expert discovery deadlines is or is not warranted in light of the discovery remaining.
 - d. to the extent possible, an agreed upon schedule for expert discovery for those cases in which all parties agree that an extension of the current schedule is necessary.
6. The defendants and lead plaintiffs’ counsel have conferred and arrived at a proposed stipulation regarding how to handle depositions of expert witnesses whose testimony is applicable to more than one case. Mr. Winingham shall e-

mail this proposed stipulation to all “first wave” plaintiffs’ attorneys (both foreign and domestic accident cases) along with a copy of this Entry, and shall file an affidavit setting forth the date that this was accomplished. **Plaintiffs’ counsel shall have 5 days to file any objection to the stipulation; absent any such objection, the court will enter the stipulation and it shall be binding on all parties in all “first wave” cases in the MDL.**

7. Defendant Bridgestone Corporation requested and was granted until April 30, 2002, to submit its errata sheets for the depositions which were taken in Japan.
8. The class plaintiffs requested and were granted a ten-day extension to submit any rebuttal expert reports relating to Ford’s expert witnesses, due to an inadvertent delay in receiving Ford’s expert reports.
9. Ford’s counsel reports that Ford is still working to respond to the plaintiffs’ inquiry regarding various gaps and omissions plaintiffs perceive in Ford’s document production.
10. Firestone reports that, in spite of the magistrate judge’s Entries dated February 6, 2002, and February 14, 2002, as well as numerous identical entries in individual cases, some plaintiffs’ counsel continue to object to Firestone examining and conducting non-destructive testing of the subject tires in their cases. In order to avoid unnecessary motions to compel or motions for protective order on this issue, the magistrate judge reiterates that in each and every case in the MDL, Firestone is entitled to have possession of the subject tires at its facility in Akron, Ohio, for a period of up to 45 days, in order to conduct non-destructive inspection and testing of the tires. Firestone shall not alter the condition of the tires, and all

parties are urged to thoroughly document the condition of the tires before
relinquishing control of them.

11. The next telephonic status conference will be held on April 11, 2002, at 3:30 p.m.²

The call will be arranged by Mark Merkle, counsel for Firestone, who shall inform
liaison counsel and the magistrate judge of the arrangements.

ENTERED this _____ day of April 2002.

V. Sue Shields
United States Magistrate Judge
Southern District of Indiana

Copies to:

Irwin B Levin
Cohen & Malad
136 North Delaware Street
P O Box 627
Indianapolis, IN 46204

William E Winingham
Wilson Kehoe & Winingham
2859 North Meridian Street
P.O. Box 1317
Indianapolis, IN 46206-1317

Randall Riggs
Locke Reynolds LLP
201 N. Illinois St., Suite 1000
P.O. Box 44961
Indianapolis, IN 46244-0961

²The parties are reminded that Indianapolis remains on Eastern Standard Time all year;
accordingly, as of April 7th we will be on the same time as Chicago, rather than the East Coast.